

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment of the Commission's Rules and
Policies to Increase Subscribership and
Usage of the Public Switched Network

CC Docket No. 95-115

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COMMENTS OF THE INFORMATION TECHNOLOGY
ASSOCIATION OF AMERICA

The Information Technology Association of America ("ITAA"), by its attorneys, hereby responds to the Notice of Proposed Rulemaking ("Notice") which the Commission issued in the above-captioned proceeding on July 20, 1995.¹ In the Notice, the Commission has solicited comment, among other things, on whether "Link Up" assistance should be used to enable highly mobile, low-income individuals to purchase voice mail services and thereby increase their level of connection to the public switched telephone network.² As set forth more fully below, ITAA urges the Commission, notwithstanding the Notice's salutary goals, not to use Link Up or any other universal service funds to subsidize the provision of enhanced services, including voice mail, to any segment of the U.S. population. Enhanced services are today and, absent unnecessary government interference,

¹ See Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network, Notice of Proposed Rulemaking, CC Docket No. 95-115, FCC 95-281 (released July 20, 1995) [hereinafter "Notice"].

² Id. at ¶ 38.

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will continue to be offered in a highly competitive, innovative, and customer-oriented market. Introducing subsidies into this environment would only serve to distort the operation of this market and deprive the American public of the benefits of competition.

I. INTRODUCTION AND INTEREST OF ITAA

ITAA is the principal trade association of the computer software and services industry. Together with its twenty affiliated regional technology councils, ITAA represents more than 6,000 companies located throughout the United States. ITAA's members provide the public with a wide variety of computer services, such as software design and support, systems integration, facilities management, and network-based enhanced services. The enhanced services furnished by ITAA's member companies are used by business, government, and residential consumers, and include such diverse offerings as credit card authorization, computer-aided design and manufacturing, database retrieval, electronic mail, electronic data interchange, gateways, information management, payroll processing, transaction processing, voice mail, and other remote access data processing services.

The U.S. computer software and services industry has thrived, not only because of American creativity and ingenuity, but also because of the intensely competitive environment in which it operates and its freedom from unwarranted and unnecessary government regulation. New companies are formed and new services are introduced virtually every day. As a consequence, the American public has benefited from an ever-expanding array of computer-based services and applications. The Commission should not

disturb this competitive and vibrant market in the name of advancing its universal service goals.

II. THE COMMISSION SHOULD NOT INTRODUCE SUBSIDIES INTO THE COMPETITIVE ENHANCED SERVICES MARKETPLACE.

The Notice commendably recognizes the difficulties which low-income Americans with impermanent living conditions face in enjoying the benefits of the public switched telephone network. In this regard, the Notice suggests that ordinary local exchange service may be impractical or unaffordable for this segment of the U.S. population. The Notice appropriately asks whether and how marketplace forces can be relied upon to meet the needs of these individuals. The Notice, however, also inquires whether Link Up assistance should be used to enable these individuals to obtain voice mail services -- without acknowledging that they are unregulated enhanced services within the meaning of the Commission's Computer Rules.³ ITAA submits that it would be totally inappropriate to use ratepayer-funded subsidies to support the provision of unregulated and competitively supplied enhanced services such as voice mail, even if it is for the laudable purpose of serving the country's low-income, highly mobile population.

As the Commission has recently recognized in a companion proceeding, universal service should not be achieved at the expense of the Commission's other public policy goals. In this regard, the Commission has articulated four principles that should guide its universal service initiatives: (i) assistance should be targeted to serve real needs;

³ Id.; see 47 C.F.R. § 64.702(a) (1994).

(ii) assistance should be technology neutral and should promote efficient investment and operation; (iii) assistance programs should not impose excessive subsidy costs on users; and (iv) assistance programs should not impair competition or "otherwise disrupt normal market forces."⁴ In ITAA's view, these principles properly balance the public's interest in promoting universal service and the benefits of preserving competitive markets.

The proposal set forth in the Notice -- to use ratepayer-funded subsidies to provide the disadvantaged with access to voice mail or, for that matter, any other enhanced services -- cannot be reconciled with these principles. In large part, this is attributable to the fact that, unlike basic telephone service, voice mail services are unregulated and vary widely in price, features, functionality, and technology. Like the enhanced services industry of which it is a part, the market for voice mail services is extremely diverse.

Providers range in size from large, established regulated telecommunications companies such as AT&T and the Bell Operating Companies to small, start-up, unregulated entrepreneurial ventures. Voice mail services themselves vary widely in sophistication and utility. Many voice mail services are offered on a national basis; others are only offered on regional or local basis. Further, some vendors provide voice mail as a network-based service; others as an equipment-based offering. The market for voice mail is thus markedly different from local exchange service, the traditional target of the Commission's universal service efforts.

⁴ See Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, Notice of Proposed Rulemaking and Notice of Inquiry, CC Docket No. 80-286, FCC 95-282, at ¶¶ 5-6 (released July 13, 1995)

If the Commission were to subsidize the provision of voice mail service, it would violate each of the universal service principles articulated by the Commission. To begin with, it would be extremely difficult to ensure that any subsidies are properly targeted or used, because voice mail providers are, by definition, not subject to common carrier or public utility regulation by the Commission or the states. Similarly, by subsidizing a given voice mail service provider, the Commission would necessarily be favoring one technology over another because voice mail services can be provided in many different ways.⁵ Further, by requiring the users of regulated basic communications services to subsidize unregulated enhanced voice mail services, the Commission would be improperly taxing interstate ratepayers. In this regard, the Commission should be guided by Congress which, in the telecommunications legislation now under consideration, has carefully and conspicuously excluded unregulated information services from the scope of universal service.⁶ Finally, by subsidizing only one of many voice mail service providers in a given market, the Commission would necessarily skew competition and "disrupt normal market forces." In

⁵ Indeed, it is by no means clear that the enhanced service needs of low-income individuals are limited to, or would be best served by, voice mail. Other services might be more highly valued and of greater use to this segment of the population. The Commission should not be in the position of selecting unregulated enhanced service offerings for consumers.

⁶ See S. 652, 104th Cong., 1st Sess. § 103(e) (1995) (adding section 253 to the Communications Act of 1934, as amended) (the Commission shall promote only "access to advanced telecommunications and information services" and only "essential telecommunications carriers . . . shall be eligible to receive [universal service] support") (emphasis added); H.R. 1555, 104th Cong., 1st Sess. § 101 (adding section 247 to the Act) (definition of universal service shall take into consideration extent to which "a telecommunications service" has become essential to the public interest).

short, subsidizing enhanced services would work at cross-purposes with the Commission's universal service principles.

This is not to say that voice mail has no place in promoting access to the public switched telephone network. Because of the Commission's enlightened Computer Rules -- which have kept the enhanced services marketplace free from government regulation -- competition and innovation have flourished, and services such as voice mail have become increasingly affordable and available to consumers. As a consequence, churches, shelters, and other public aid organizations are familiar with, and have come to appreciate the value of, enhanced services, including voice mail, in serving the less fortunate. Through their programs, and through the contributions of individual voice mail providers, these services are now being made available to the homeless and low-income individuals.⁷ These efforts will continue if marketplace forces are allowed to operate freely and drive down the price -- and thereby increase the availability -- of voice mail and other enhanced services.

The Commission should therefore not use ratepayer-funded subsidies to support the provision of unregulated enhanced services.

⁷ See, e.g., Briefly/Business, Durham Herald-Sun, Jan. 29, 1995, at F4; Giving Shelter, Los Angeles Times, Jan. 1, 1994, at B1; Voice Mail Project Reaching Homeless Ready to Connect, Baltimore Business Journal, Nov. 5, 1993, at 1; Computer Voice Mail Helps Homeless Find Jobs, CNN News, June 21, 1992, Transcript #78-2; New Center Offers Hope for Homeless, Chicago Tribune, Dec. 8, 1992, at 5.

III. CONCLUSION

For all of the reasons set forth above, ITAA urges the Commission to reject the proposal set forth in the Notice and rely instead on private initiatives to bring voice mail and other enhanced services to highly mobile, low-income Americans.

Respectfully submitted,

INFORMATION TECHNOLOGY
ASSOCIATION OF AMERICA



By: Joseph P. Markoski
Marc Berejka
Squire, Sanders & Dempsey
1201 Pennsylvania Avenue, N.W.
P.O. Box 407
Washington, D.C. 20044
(202) 626-6600

Its Attorneys

September 27, 1995

CERTIFICATE OF SERVICE

I, Marc Berejka, do hereby certify that on this 27th day of September, 1995, I have caused a copy of the foregoing to be served via hand delivery upon the persons listed below.



Marc Berejka

Chairman Reed E. Hundt
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, D.C. 20554

Commissioner James H. Quello
Federal Communications Commission
Room 802
1919 M Street, N.W.
Washington, D.C. 20554

Commissioner Andrew C. Barrett
Federal Communications Commission
Room 826
1919 M Street, N.W.
Washington, D.C. 20554

Commissioner Rachelle B. Chong
Federal Communications Commission
Room 844
1919 M Street, N.W.
Washington, D.C. 20554

Commissioner Susan Ness
Federal Communications Commission
Room 832
1919 M Street, N.W.
Washington, D.C. 20554

Kathleen M.H. Wallman
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Room 500
Washington, D.C. 20554

Andrew Mulitz
General Attorney
Accounting & Audits Division
Common Carrier Bureau
Federal Communications Commission
2000 L Street, N.W.
Room 257
Washington, D.C. 20554

George Johnson
General Attorney
Accounting & Audits Division
Common Carrier Bureau
Federal Communications Commission
2000 L Street, N.W.
Room 257
Washington, D.C. 20554